



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 30, 1994

Ms. Sheree L. Rabe
Assistant City Attorney
City of Georgetown
P.O. Box 409
Georgetown, Texas 78627-0409

OR94-620

Dear Ms. Rabe:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 27220.

The City of Georgetown (the "city") has received a request for "any [information] on police calls occurring at the residence of 1905 Thorton in Georgetown . . . [f]rom the months of January [through] July 1994." You state that the city police department received three calls to the residence during this period of time. Believing that all of the information concerning two of the calls would identify the complainant, you decided to withhold from the requestor all of the documentation of these two calls, which occurred on April 13, 1994, and June 11, 1994. Regarding the documentation of the third call, which occurred on April 12, 1994, you decided to withhold from the requestor the complainant's name, telephone number, and any information that you believed would identify the complainant. You have submitted copies of the requested information to our office for review, *see* Gov't Code § 552.303 (requiring governmental body that requests attorney general decision to supply attorney general with specific information requested), but you have not indicated on the documents which information you have withheld from the requestor.

You believe that section 552.101 of the Government Code, which incorporates the informer's privilege, and section 552.108 of the Government Code authorize the city to withhold the information you have thus far withheld. In *Roviaro v. United States*, 353 U.S. 53, 59 (1957), the United States Supreme Court explained the rationale that underlies the informer's privilege:

What is usually referred to as the informer's privilege is in reality the Government's privilege to withhold from disclosure the identity of persons who furnish information of violations of law to officers charged with enforcement of that law. The purpose of the privilege is the furtherance and protection of the public interest in effective law enforcement. The privilege recognizes the obligation of citizens to communicate their knowledge of the commission of crimes to law-enforcement officials, and, by preserving their anonymity, encourages them to perform that obligation. [Citations omitted.]

Although the privilege ordinarily applies to the efforts of law-enforcement agencies, it may apply to administrative officials with a duty of enforcing particular laws. Attorney General Opinion MW-575 (1982) at 2; Open Records Decision Nos. 285 at 1, 279 at 1-2 (1981); *see also* Open Records Decision No. 208 (1978) at 1-2. This may include enforcement of quasi-criminal civil laws. Open Records Decision Nos. 515 (1988) at 3; 391 (1983) at 3. Significantly, however, the privilege protects the content of communications only to the extent that it identifies the informant. *Roviaro*, 353 U.S. at 60.

We examined the documents you have submitted, and we agree that the documents allege violations of the law, either state or municipal. We further agree that the complaints were made to the city department responsible for enforcing the laws. Accordingly, we conclude that you may withhold from the requestor information that identifies the complainants. In regard to the April 12 complaint, we conclude that the city may withhold from the requestor the complainant's name and telephone number. You have not demonstrated that any of the remaining information identifies the complainant; accordingly, the city must release to the requestor the remaining information relating to the April 12 complaint.

In regard to the April 13 and June 13 complaints, we agree that the narrative reports tend to identify the complainant. However, you have not demonstrated how some of the information on the documents identifies the complainant, *e.g.*, information revealing which unit received the call, the time of the call, and the police department's response time. We conclude that, pursuant to section 552.101 of the Government Code, the city may withhold from the requestor only information identifying the complainant; it must release to the requestor all information that does not identify the complainant. For your convenience, we have marked on all of the documents you submitted the information the city may withhold under section 552.101.

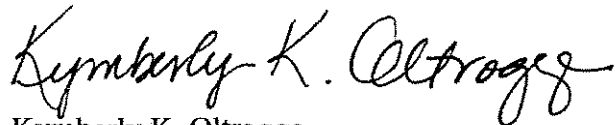
We next consider whether section 552.108 of the Government Code authorizes the city to withhold from the requestor any information that section 552.101 does not except. Section 552.108 of the Government Code protects from required public disclosure law-enforcement agency records that pertain to the detection, investigation, or prosecution of crime and internal records of a law-enforcement agency that the agency maintains for

internal use in matters relating to law-enforcement. In a criminal case that is under active investigation, section 552.108 exempts from disclosure all information except that normally found on the first page of the offense report. *See generally Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). You have not demonstrated that these records pertain to a criminal case under active investigation.

A governmental body that claims section 552.108 with respect to information unrelated to a case under active investigation must show, unless the records supply the information on their face, how release of the requested information unduly would interfere with law enforcement. You have not demonstrated that release of the requested information unduly would interfere with law enforcement, nor do the records supply the information on their face. Consequently, we conclude that section 552.108 does not authorize the city to withhold from the requestor any of the requested information.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact this office.

Yours very truly,



Kymberly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/LRD/rho

Ref.: ID# 27220

Enclosures: Marked documents

cc: Mr. Douglas D. Purvis
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(w/o enclosures)